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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,226	11/13/2003	Jerome A. Maloney	560043-620-640	8486
28997	7590	12/29/2005	EXAMINER	
HARNES, DICKEY, & PIERCE, P.L.C			GALL, LLOYD A	
7700 BONHOMME, STE 400			ART UNIT	
ST. LOUIS, MO 63105			PAPER NUMBER	
			3676	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/712,226	Applicant(s) MALONEY ET AL.	
	Examiner Lloyd A. Gall	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6,14-16,19 and 24-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,14-16,19 and 24-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/30/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The written specification must provide support for what is being claimed in new claim 38.

Claims 30-38 are objected to because of the following informalities: In claim 30, line 3, there is no antecedent basis for "the pedestal enclosure". In claim 30, line 5, it is not clear if the "pedestal closure" differs from the "pedestal closure assembly" of line 1, or not. In line 1 of claims 31-38, --assembly-- should follow "closure" for consistency with claim 30. In claim 38, the negative limitation is not understood. Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by James et al (960).

James et al teaches a dome 12 on a base 10, a lock 22 as seen in fig. 2 and mounted within the dome, and capable of being mounted adjacent cables, the dome 12 being slidable on the base 10, the lock including an outer surface 50 in fig. 2 as well as rounded corners at numerals 51, 51' in fig. 2, wherein the flat outer surface 50 as well as the rounded corners are capable of preventing snagging of cables. It is noted that

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cables are not being positively claimed in any claim, and the primary reference to James et al is capable of functioning with cables. Further, "prevent snagging of cables" is regarded throughout the claims as being a structurally unsupported functional limitation, of no patentable significance. All surfaces of the lock of James are capable of preventing snagging of cables, and it is submitted that the surfaces of James are capable of preventing snagging of cables which are spaced from the lock within the dome. With respect to claim 32, the flat surface 50 is free of sharp edges, as are the rounded corners at numerals 51,51'.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over James et al in view of Hollister.

Hollister teaches a lock mounted on a closure, including a slidable latch 9. It would have been obvious to substitute a slidable latch for the latch of the lock of James, in view of the teaching of Hollister, since it is well known in the lock/latch art that swinging and slidable latches are interchangeable.

Claims 33–37 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al in view of Sullivan et al.

Sullivan teaches slanted walls and rounded corners (column 5, lines 39–40) on a lock housing 6. It would have been obvious to modify the lock housing 50 of James to

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include slanted walls and rounded corners, in view of the teaching of Sullivan et al, the motivation being to prevent tampering with the lock housing and to inherently also prevent the snagging of any other structure used with the lock.

Claims 1-3, 6 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al in view of Hollister and either Mahaney or Leininger et al.

As set forth in the above rejections, it is submitted that cables are not being positively claimed, and the reference to James is capable of preventing the snagging of cables. James teaches a base 24, 25 mounted on a dome of a pedestal cover 10 by means of attaching 101, a channel between the side walls 25, and a rotator 70 to control a spring-biased latch 29, 30. The flat surface 50 as well as the rounded corners at numerals 51, 51' are capable of preventing the snagging of cables. Hollister teaches a lock mounted on a closure, including a spring-biased 21 slider 9 in a channel 16, 17 and actuated by a rotator 25, 26, including a cam follower surface 27 on the wall labeled 9 on an extended end portion of the slider to be actuated by an arm 26 on the rotator. The slider and rotator of Hollister are mounted within a base 11 having smooth, slanted surfaces at its top as seen in fig. 3, and a cover 20. Mahaney 34, 30 and Leininger 64, 54 teach that it is well known to utilize a drainage port with a channel which houses a lock/latch. It would have been obvious to substitute a rotator and slider mounted in an angled surface base and cover for the key-actuated latch of James et al, in view of the teaching of Hollister, the motivation being to simplify assembly of the lock on the pedestal cover, and since sliding and rotating key-operable latches are well known to be interchangeable in the lock/latch art. It would have been obvious to provide drainage

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ports with the channel of James et al as modified by Hollister, in view of the teaching of Mahaney or Leininger, the motivation being to prevent corrosion of the latch parts.

Claims 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al in view of Hollister and either Mahaney or Leininger et al as applied to claim 1 above, and further in view of Sullivan.

Sullivan teaches slanted walls and rounded corners (column 5, lines 39-40) on a lock housing 6. It would have been obvious to modify the lock housing 50 of James to include slanted walls and rounded corners, in view of the teaching of Sullivan, the motivation being to prevent tampering with the lock housing as well as inherently to prevent the snagging of any adjacent structure.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al in view of Hollister and either Mahaney or Leininger et al as applied to claim 1 above, and further in view of Yang (417).

Yang teaches a base 7a and a cover 7b each having an opening to receive a rotator 17 as seen in fig. 2A, a slider 13 having a slot to receive the rotator as seen in fig. 2B, a spring 15 mounted between a side wall and the slider. As seen in fig. 2B, the wall on the slider which is located to the left of the spring 15 in fig. 2B constitutes an abutment or limit stop projection wall. It would have been obvious to modify the rotator/slider of James as modified by Hollister to include a rotator received in a slot of the slider and mounted within openings of the base and cover, and a spring mounted between a side wall and slider, in view of the teaching of Yang, the motivation being to provide a compact rotator and slider assembly.

Claims 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over James as modified by Hollister, either Mahaney or Leininger et al and Yang as applied to claim 15 above, and further in view of Dallmann (989).

Dallmann teaches a snap arm(s) 82 and opening 88 for interlocking a base 38 to a cover 36. It would have been obvious to provide a snap arm and opening between the base and cover of James et al as modified by Hollister and Yang, in view of the teaching of Dallmann, the motivation being to simplify assembly of the base to the cover.

Applicant's arguments with respect to claims 1-3, 6, 14-16, 19 and 24-38 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

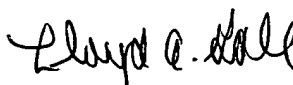
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lloyd A. Gall whose telephone number is 571-272-7056. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LG LG
December 21, 2005


Lloyd A. Gall
Primary Examiner